IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2492 of 2005

Between:

A.Fakruddin Saheb, S/o Dastagiri Saheb,

Occ:Ex.F.P.Shop Dealer (Shop No.II),

Katrimala village, Pamidi Mandal, Anantapur.

..... PETITIONER

AND

1. The Joint Collector,

Anantapur, Anantapur District.

2. The Revenue Divisional Officer,

Anantapur District, Anantapur.

3. The Mandal Revenue Officer,

Pamidi Mandal, Anantapur District.

4. Sri M.Adippa, S/o not known,

Cardholder, R/o Katrimala village,

Pamidi mandal, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or orders or direction more particularly one in the nature of writ of mandamus declaring the proceedings No.Rc.No.k4/ATP/134/2005 dated

11/02/2005 of the 1st respondent as illegal, arbitrary, unjust and in violation of the Arcicle 14 and 21 of the Constitution of India and consequently direct the respondents No.1 to 3 to allow the petitioner to continue as F.P.Shop dealer for Shop.No.II of Katrimala village, Pamidi mandal, Anantapur District.

Counsel for the Petitioner:MR.S.D.GOWD

Counsel for the Respondents 1 to 3: GP FOR CIVIL SUPPLIES

Counsel for Respondent No.4: Mr. B.Anjaneyulu

The Court at the admission stage made the following :

ORDER:

The petitioner was issued a show cause notice, dated 18.12.2004, directing him to explain as to why the authorization for a fair price shop shall not be cancelled, in view of the four charges mentioned therein. The petitioner submitted his explanation to the same. On a consideration of the explanation and the material before him, the 2nd respondent cancelled the authorization of the petitioner through proceedings, dated 20.01.2005. Aggrieved thereby, the petitioner preferred an appeal before the 1st respondent together with an application for stay. The 1st respondent rejected the application for interim orders through his order, dated 11.02.2005. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The authorization of the petitioner was cancelled on the basis of certain allegations. The petitioner urges that though the 2nd respondent issued a show cause notice, he did not give an opportunity of being heard as provided for under Clause 5(4) of the A.P.State Public Distribution System Control Order, 2001. He placed reliance upon a judgment of this Court in ***K. Radhakrishna Naidu v. Director of Civil Supplies, Hyderabad***.

The question as to whether the order of cancellation suffers from any illegality or infirmity needs to be considered at the time of hearing of the appeal. It is rather impermissible to grant interim orders in such matters. It is only where the order of cancellation suffers from basic infirmity, such as non-issuance of show cause notice, that the feasibility of granting interim orders can be examined. In the present case, this Court does not find any basic infirmities. The main contention advanced on

behalf of the petitioner can be considered at the time of hearing of the appeal.

Hence, the writ petition is disposed of, directing the 1st respondent to pass appropriate orders in the appeal itself, within a period of four weeks from the date of receipt of a copy of this order. The 2nd respondent shall not appoint any dealer in the place of the petitioner on regular basis, till the disposal of the appeal by the 1st respondent. There shall be no order as to costs.

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15.02.2005

Jsu

To

1. The Joint Collector,

Anantapur, Anantapur District.

2. The Revenue Divisional Officer,

Anantapur District, Anantapur.

3. The Mandal Revenue Officer,

Pamidi Mandal, Anantapur District.

4 Two CCs to the GP FOR CIVIL SUPPLIES,

High Court Buildings, Hyderabad (O.U.T.)

5 2 CD copies